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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR       | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/723,113      | 11/26/2003  | Frederick James Diggle III | 030573              | 1315             |

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EXAMINER

WOOD, KIMBERLY T

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3632

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/723,113

Applicant(s)

DIGGLE ET AL.

Examiner

Kimberly T. Wood

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-14,17,18 and 20-27 is/are pending in the application.
- 4a) Of the above claim(s) 21-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-14,17,18 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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This is an office action for serial number 10/723,113.

### ***Drawings***

The drawings were received on September 24, 2004. These drawings are approved.

### ***Specification***

The amendment filed September 24, 2004 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the first curved end pivots or the second curved end pivots at a hinge and a second curved end comprising a latch. The applicant has added an embodiment by taking the limitations of a first species figure 1A and including the limitations of the second species figure 2A.

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 17 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the second curved end comprising a latch and a first hooked end, does not reasonably provide enablement for a second curved end comprising a latch and a first hooked end pivots at a hinge. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims.

Claim 18 rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a second curved end comprising a latch, does not reasonably provide enablement for second curved end comprising a latch and pivots at a hinge. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims.

Claim 5, 6, and 13 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the hinged device (figure 2A) having a rubber coating, does not reasonably provide enablement for the catch or latch device

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(figure 1A) having a rubber coating The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 recites the limitation "first curved end " in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 17 recites the limitation "first curved end" in line 1. There is insufficient antecedent basis for this limitation in the claim.

The claims have been rejected under 35 U.S.C. 112 for the above reasons. Please note that the Examiner may not have pointed out each and every example of indefiniteness. The applicant is required to review all the claim language to make sure the claimed invention is clear and definite.

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***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 8-11, and 12 are rejected, as best understood, under 35 U.S.C. 102(b) as being anticipated by Geiger et al. (Geiger) 4,050,187. Geiger discloses a plastic device (column 3, lines 60ff) a first hooked end (26), and a second curved end (27) comprising a latch (30), fastening device (defined as to take a firm grip with Webster's dictionary 10<sup>th</sup> edition, elements 24 and 25). The applicant is reminded that the claims are directed to the subcombination of the device therefore the device only need to be capable of attaching to a ladder or a ceiling component.

Claims 17, 18, and 20 are rejected, as best understood, under 35 U.S.C. 102(b) as being anticipated by Bennett 2,842,822. Bennett discloses a first hooked end (19) pivots at a hinge (22) and second curved end pivots at a hinge (27) the means for changing the shape of the device being the hinge.

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 5, 6, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geiger 4,050,187 in view of Day 2,245,126. Geiger discloses all of the limitations of the claimed invention except for the rubber coating. Day teaches that it is known to have an end having a rubber coating (16). It would have been obvious to one having ordinary skill in the art to have modified Geiger to have include the rubber coating as taught by Day for the purpose of preventing damage to the device and/or the supported article.

Claim 14 rejected under 35 U.S.C. 103(a) as being unpatentable over Geiger 4,050,187 in view of Taylor 2001/0042813A1. Geiger discloses all of the limitations of the claimed invention except for the grooves. Taylor disclose a device being made of plastic (see [0031]) comprising a first or second curved end /means for connecting (10), a second or first

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curved end/means for supporting (6), the second curved end having grooves (18). It would have been obvious to one having ordinary skill in the art at the time of the invention to have included the grooves as taught by Taylor for the purpose of preventing sliding or accidental removal of the wires.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure..

The prior art discloses conventional devices having hooked and curved ends with latches or clamps.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS.



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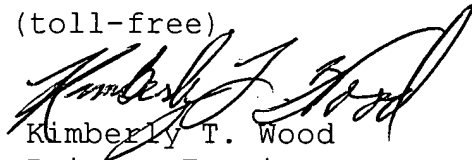
of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly T. Wood whose telephone number is 703-308-0539. The examiner can normally be reached on Monday-Thursday 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Kimberly T. Wood  
Primary Examiner  
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February 7, 2005